



U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

NOV 30 2018

The Honorable Chuck Grassley
Chairman
Committee on the Judiciary
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

Please find enclosed responses to questions arising from the appearance of then-Director James B. Comey before the Committee on May 3, 2017, at a hearing entitled "Oversight of the Federal Bureau of Investigation."

Please do not hesitate to contact this office if we may be of additional assistance regarding this or any other matter. The Office of Management and Budget has advised us that from the perspective of the Administration's program, there is no objection to submission of this letter.

Sincerely,

A handwritten signature in cursive script that reads "Prim Escalona".

Prim F. Escalona
Principal Deputy Assistant Attorney General

Enclosure

cc: The Honorable Dianne Feinstein
Ranking Member

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**(U) RESPONSES OF
THE FEDERAL BUREAU OF INVESTIGATION**

**TO QUESTIONS FOR THE RECORD
ARISING FROM A HEARING
BEFORE THE
COMMITTEE ON THE JUDICIARY
UNITED STATES SENATE**

**ENTITLED
“OVERSIGHT OF THE FEDERAL BUREAU OF INVESTIGATION”**

(U) MAY 3, 2017

(U) Questions from Senator Grassley:

(U) FBI’s Reported Arrangement with Christopher Steele

(U) On February 28, 2017, the *Washington Post* reported that the FBI reached an agreement a few weeks before the Presidential election to pay the author of the unsubstantiated dossier alleging a conspiracy between President Trump and the Russians, Christopher Steele, to continue investigating Mr. Trump.¹ The article claimed that the FBI was aware Mr. Steele was creating these memos as part of work for an opposition research firm connected to Hillary Clinton. The idea that the FBI and associates of the Clinton campaign would pay Mr. Steele to investigate the Republican nominee for President in the run-up to the election raises further questions about the FBI’s independence from politics, as well as the Obama administration’s use of law enforcement and intelligence agencies for political ends. It is additionally troubling that the FBI reportedly agreed to such an arrangement given that, in January of 2017, then-Director Clapper issued a statement stating that “the IC has not made any judgment that the information in this document is reliable, and we did not rely upon it in any way for our conclusions.” According to the *Washington Post*, the FBI’s arrangement with Mr. Steele fell through when the media published his dossier and revealed his identity.

1. When did the FBI first communicate with Mr. Steele regarding allegations of connections between the Trump campaign and Russia? Who interacted with Mr. Steele, what was discussed, and how or where did the meeting occur? Was information received from [sic] Mr. Steele part of the basis for opening the investigation into allegations of the Trump campaign’s connections with Russia?
2. When did all subsequent FBI interactions with Mr. Steele occur regarding allegations of connections between the Trump campaign and Russia? Who interacted with Mr. Steele

(U) ¹Tom Hamburger and Rosalind Helderman, *FBI Once Planned to Pay Former British Spy Who Authored Controversial Trump Dossier*, THE WASHINGTON POST (Feb. 28, 2017).

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in each subsequent interaction, what was discussed, and how or where did the meeting occur?

3. Did the FBI ever interact with anyone associated with Fusion GPS regarding allegations of connections between the Trump campaign and Russia? If so, who, when, where, and what was discussed?
4. Did the FBI ever pay Steele or Fusion GPS in connection with the FBI's inquiry into allegations of connections between the Trump campaign and Russia, including travel expenses, if any? If so, how much was paid, when was it paid, to whom, and who authorized the payments?
5. The public version of the dossier simply lists sources by letter rather than name. Does the FBI's version of the dossier contain the source names? If so, who are the named sources in the FBI's version of the dossier?
6. How did the FBI first come to possess the dossier?
7. With whom did the FBI share the dossier, and when? Who authorized this sharing?
8. Has the FBI created, or contributed to the creation of, any documents based on or otherwise referencing these memos or the information in the memos? If so, what are the document numbers or titles of these documents? When were they created? To whom were they distributed? Who authorized this distribution?
9. What FBI policies are applicable when the FBI seeks to fund an outside investigator associated with a political opposition research firm connected to a political candidate, or with any outside entity?
10. Did the FBI propose or enter into any agreements with Mr. Steele relating to the investigation of allegations of Trump campaign connections with Russia? If so, what were the terms? Did the agreements enter into force?
11. Who decided to include the memos in the briefings received by Presidents Obama and Trump? What was the basis for that decision?
12. In a lawsuit against Mr. Steele regarding the dossier, he has stated that he also gave dossier information to the British government. Did the FBI receive any intelligence from the British that was based on information provided by Mr. Steele? What steps does the FBI take to determine whether foreign intelligence is an echo of information it has already been provided, rather than confirmation of it?
13. Did the FBI work with Mr. Steele on the FIFA investigation? What services did Mr. Steele provide? How much was he paid by the FBI? What were the terms of his work with the FBI?

(U) Response:

(U) As noted in previous correspondence with Chairman Grassley, to the extent that the FBI is able to respond to the questions above they have been conveyed to the Chairman and Ranking Member Feinstein personally during a briefing provided by former Director Comey.

(U) Question: On March 31, 2017, I wrote to the Department of Justice, copying the FBI, regarding allegations concerning [the] company overseeing the creation of the dossier, Fusion GPS. The letter explained that Fusion GPS is the subject of a complaint to the Justice Department, which alleges that the company violated the Foreign Agents Registration Act by working on behalf of Russian principals to undermine U.S. sanctions against Russians. That unregistered work was reportedly conducted with a former Russian intelligence operative, Mr. Rinat Akhmetshin, and appears to have been occurring simultaneous to Fusion GPS's work overseeing the creation of the dossier.

1. When the FBI was in contact with Mr. Steele or otherwise relying on information in the dossier he created, was it aware that his employer, Fusion GPS, was allegedly simultaneously working as an unregistered agent for Russian interests?
2. If so, when and how did FBI become aware of this information? Did it include this information about Fusion GPS's alleged work for Russian principals in any documents describing or relying on information from the dossier? If not, why not?
3. If the FBI was previously unaware of Fusion GPS's alleged unregistered activity on behalf of Russian interests and connections with a former Russian intelligence operative, does the FBI plan to amend any applications, reports, or other documents it has created that describe or rely on the information in the dossier to add this information? If so, please provide copies of all amended documents. If not, why not?
4. Has the FBI investigated allegations that Fusion GPS and Rinat Akhmetshin were working as unregistered agents of a foreign principal, in violation of the Foreign Agents Registration Act? If not, why not? If so, what did the investigation conclude?
5. Has the FBI otherwise investigated whether Rinat Akhmetshin is a Russian intelligence operative? If not, why not? If so, what did the investigation conclude?

(U) Response:

(U) As mentioned above, the FBI cannot provide further answers than what has already been conveyed to Chairman Grassley and Ranking Member Feinstein.

(U) FBI's Review of Fetal Tissue Referral and Report

(U) After a lengthy and detailed investigation by the Committee into paid fetal tissue transfers, I wrote to Attorney General Lynch and Director Comey on December 13, 2016, to refer eight organizations for investigation and potential prosecution for violations of the law that bans the buying or selling of human fetal tissue, 42 U.S.C. § 289g-2, and the criminal conspiracy statute, 18 U.S.C. § 371. These referrals were based on information described in a Majority Staff Report to the Committee, titled: "Human Fetal Tissue Research: Context and Controversy."² That report was the result of a review of more than 20,000 pages of internal documents provided directly to the Committee from the organizations involved; information provided by government agencies; and the legislative history of laws that impose the ban on buying or selling fetal tissue. Importantly, the report included descriptions and analyses of individual paid transfers from particular aborted fetuses, as detailed in the billing records and procurement logs provided by the organizations. The referral letter asked that the FBI please contact the Committee if it determine that it needs to seek access to unredacted copies of any of the records necessary to further its investigation into these matters. However, no one contacted the Committee about these records.

(U) Accordingly, on April 24, 2017, I sent a follow-up letter on the matter. The letter asked for written confirmation by May 8, 2017, that relevant Justice Department and FBI personnel have reviewed or will review the referral and report in full in order to determine whether to initiate an FBI and Justice Department investigation of these matters, or as part of any ongoing investigation of these matters, or to re-evaluate any closed or declined investigation of these matters if they were not reviewed prior to such decisions. I have not received a response.

1. Has anyone from the FBI reviewed the referral and report in full?
2. If so, who reviewed it and when?
3. If not, will the FBI commit to having relevant personnel review them in full?

(U) Response:

(U) The FBI provided a response on June 19, 2017, confirming that the Criminal Investigative Division (CID) of FBI Headquarters received Chairman Grassley's referrals and sent them to the relevant FBI field offices for review and any action deemed appropriate.

(U) FBI's Role in Enforcement of the Foreign Agents Registration Act

(U) A recent Inspector General (IG) audit of the DOJ's Foreign Agents Registration Act enforcement procedure found that there is a lack of statutory understanding of FARA, as well as

(U) ²The report is available at:
<https://www.grassley.senate.gov/sites/default/files/judiciary/upload/22920%20-%20FTR.pdf>

a lack of a coherent enforcement strategy.³ Specifically, the Inspector General noted “there was not a coordinated strategy on FARA,” and “there was no strategy addressing how FARA fits into the Department’s overall national security efforts.”⁴ Even National Security Division officials “acknowledged the differing views on what constitutes a FARA charge” and as a result are in the process of “educat[ing] field investigators and prosecutors on the difference.”⁵ The IG’s report found that the DOJ’s refusal to properly enforce FARA extended into civil enforcement as well, noting that injunctive relief had not been sought as a remedy since 1991.⁶ Such a lack of enforcement has created a lack of accountability. The IG report noted that documents are routinely submitted late, or in many cases, registrants ceased submitting required documents entirely.⁷

(U) The lack of FARA enforcement has led to frustration within the FBI, with personnel interviewed by the IG articulating specific concerns. The majority of FBI personnel interviewed complained that the DOJ was “generally slow and [] reluctant to approve FARA charges.”⁸ The IG report concluded that the DOJ has failed to devote the time and attention required to enforce FARA, oftentimes taking the view that “[these] matters will take as long as they take,”⁹ while failing to use the tools at its disposal to compel compliance with FARA. These findings illustrate a breakdown of the FARA enforcement process.

(U) 1. Please explain the FBI’s role in FARA enforcement and how it interfaces with the DOJ.

(U) Response:

(U//FOUO) As part of our national security and criminal missions, the FBI routinely conducts FARA registration checks when it becomes apparent that a subject may be assisting a foreign government or organization. Upon identifying a subject that may be assisting a foreign government or organization, the FBI may choose to consult with the DOJ’s National Security Division (“DOJ/NSD”) in order to discuss potential responses to the subject’s failure to register, to include prosecution or the issuance of an inquiry letter.

(U) 2. Does the FBI still believe that DOJ is “generally slow” and “reluctant to approve FARA charges”?

(U) ³Office of the Inspector General of the U.S. Department of Justice, *Audit of the National Security Division’s Enforcement and Administration of the Foreign Agents Registration Act*, p. 11 (September 2016).

(U) ⁴*Id.*

(U) ⁵ *Id.* at 10.

(U) ⁶ *Id.* at 12.

(U) ⁷ *Id.* at 13.

(U) ⁸ *Id.* at 10.

(U) ⁹ *Id.*

(U) Response:

(U//FOUO) No. From 2007 to the present, according to the DOJ/NSD, there have been four successful prosecutions on FARA-related charges (in contrast to the prior 40 years, in which no FARA charge was prosecuted successfully). In recent memory, there has only been a single case in which a U.S. Attorney's Office proposed a criminal FARA charge that NSD has not approved (and that case was prosecuted under a more serious offense and a conviction was obtained). Meanwhile, during that same period, DOJ/NSD has not declined to open any criminal investigation proposed by FBI to the Counterintelligence and Export Control Section ("CES"). Where CES has identified evidence of willfulness, successful enforcement — including prosecution — depends on the FBI and U.S. Attorneys' Offices ability and willingness to staff those investigations, given competing counterintelligence and counterterrorism priorities.

- (U) 3. In light of the IG's findings, please explain what steps the FBI has taken to better interface with the DOJ to strengthen FARA enforcement. In addition, please explain any ongoing shortcomings that the FBI is working to improve on.

(U) Response:

(U//FOUO) The FBI and DOJ/NSD have collaborated to increase the FBI's training with regard to the elements of FARA, potential criminal penalties under FARA, and to better differentiate FARA from 18 U.S.C. § 951.

Questions from Senator Coons:

- (U) 1. The *New York Times* and the *Washington Post* reported that, days before he was fired, Director Comey asked Deputy Attorney General Rod Rosenstein for a significant increase in resources for the FBI's investigation into Russia's interference in the presidential election. According to the reports, Director Comey made the request for more resources in a meeting with Deputy Attorney General Rosenstein.
- a. Please provide all dates on which Director Comey met with Deputy Attorney General Rosenstein.
 - b. Who attended each of those meetings?
 - c. Did Director Comey request additional resources — from Deputy Attorney General Rosenstein or from anyone else — for the investigation into Russian interference in the presidential election?

- d. If so, what additional resources did he request?
- e. If Director Comey made a request for additional resources, what were the responses of Deputy Attorney General Rosenstein and any other Department of Justice officials who may have responded?
- f. Have any additional resources for the investigation into Russian interference in the presidential election been provided to the FBI?
- g. If so, what additional resources have been provided?
- h. Are there outstanding commitments to provide additional resources for the investigation into Russian interference in the presidential election?
- i. Does the FBI require additional resources for the investigation into Russian interference in the presidential election?
- j. If so, what additional resources does the FBI require?

(U) Response:

(U) While we cannot speak on behalf of former Director Comey, we can state that in regard to resources for the FBI's investigation into Russia's interference, on May 11, 2017, then Acting FBI Director Andrew McCabe testified before the Senate Select Committee on Intelligence ("SSCI") that the FBI, and specifically the Russia investigation, is "adequately resourced." Acting Director McCabe also testified before the SSCI on FISA Reauthorization on June 7, 2017, stating "[w]e [then-Director Comey and Deputy Director McCabe] did talk about resource issues and whether or not we had asked for additional resources to pursue the investigation. And I believe my response at the time was we had not asked for additional resources, and that we had adequate resources to pursue the investigation. That was true then. It's still true today."

(U) 2. President Trump's May 9, 2017 letter to Director Comey states, "I greatly appreciate you informing me, on three separate occasions, that I am not under investigation."

- a. When were these three occasions, and who was present?
- b. Were these communications made orally or in writing?
- c. If these communications were made in writing, please provide copies.
- d. If these communications were made orally, please describe the date, time, and place of these conversations; whether the communications were made by phone or in person; and the names of everyone who was privy to these communications.

(U) Response:

(U) On June 8, 2017, former Director Comey testified before the SSCI regarding his interactions with President-Elect and President Trump. Additionally, in his Statement for the Record for this particular hearing, former Director Comey extensively detailed his meetings with President-Elect and President Trump. We believe this hearing and former Director Comey's Statement for the Record answer many of the questions above. Rather than attempting to speak on former Director Comey's behalf, we refer you to that transcript and Statement for the Record.

(U) Questions from Senator Hirono:

(U) The Honorable James B. Comey

(U) 1. According to multiple news reports, days before President Trump fired you, you made a request of Deputy Attorney General Rosenstein for additional Justice Department resources for the FBI's investigation of Russia's interference into the 2016 election and possible collusion with the Trump campaign. Please provide details regarding this request, including, but not limited to:

- a. what additional funds and personnel were requested;
- b. whether you discussed any initial findings, details, or scope of the investigation with the Deputy Attorney General;
- c. whether others were present during the discussion;
- d. your justification for requesting the additional resources;
- e. whether you had any additional discussions with the Deputy Attorney General, Justice Department or other Administration officials regarding the need or request for additional resources; and
- f. any response you received then or otherwise from the Deputy Attorney General or anybody else with the Justice Department or Trump Administration.

(U) 2. Aside from the contents of Deputy Attorney General Rosenstein's about your performance as FBI Director in handling the Clinton email probe, which was made public by the Trump administration and cited as a reason for your termination, has the President, Attorney General, Deputy Attorney General or any other administration official given any other reasons for your firing?

- (U) 3. What impact do you believe your firing will have on the FBI's ongoing investigation into Russian interference in the 2016 election and possible collusion with the Trump campaign?
- (U) 4. Do you believe that your firing constitutes an attempt by the President to obstruct or impede the investigation into Russian interference and possible Trump campaign collusion?
- (U) 5. Did the recently issued subpoenas to associates of General Flynn factor into your firing? Did President Trump know about these subpoenas prior to your firing?
- (U) 6. In President Trump's letter to you informing you of your dismissal, he wrote that you had informed him on three separate occasions that he is not under investigation. Is that true, and if so, what was the basis for your determination that he was not under investigation? If true, did your statements extend to whether any officials associated with President Trump's campaign, transition, or administration were under investigation? When were these meetings or discussions? Is it consistent with FBI or Department of Justice protocol to provide such status updates to the President in the middle of an investigation?
- (U) Please provide the Committee with a status update on the investigation into Russian interference in the 2016 election.
- a. How will evidence collected thus far be properly preserved to ensure that the Trump Administration does not tamper or destroy it?
 - b. Are there preliminary findings and conclusions that can or should be shared with Congress now in light of the unprecedented actions by the Trump Administration to fire you in the middle of this investigation into its possible collusion with Russia to influence an American election?

Response:

(U) As you know, then Acting Attorney General Rosenstein announced the appointment of a Special Counsel "to conduct the investigation confirmed by then-FBI Director James B. Comey in testimony before the House Permanent Select Committee on Intelligence on March 20, 2017, including: (i) any links and/or coordination between the Russian government and individuals associated with the campaign of President Donald Trump; and (ii) any matters that arose or may arise directly from the investigation; and (iii) any other matters within the scope of 28 C.F.R. § 600.4(a)." Pursuant to long-standing DOJ and FBI policy, we do not comment on ongoing investigations.

(U) Regarding resources, on May 11, 2017, Acting FBI Director Andrew McCabe testified before the SSCI that the FBI, and specifically the Russia investigation, is "adequately resourced." Acting Director McCabe also testified before the SSCI on FISA Reauthorization on June 7, 2017, stating "[w]e [then-Director Comey and Deputy Director McCabe] did talk about

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resource issues and whether or not we had asked for additional resources to pursue the investigation. And I believe my response at the time was we had not asked for additional resources, and that we had adequate resources to pursue the investigation. That was true then. It's still true today.”

(U) On June 8, 2017, former Director Comey testified before the SSCI regarding his interactions with President-Elect and President Trump. Additionally, in his statement for the record for the June SSCI hearing, former Director Comey extensively detailed his meetings with President-Elect and President Trump. We believe this hearing and former Director Comey's Statement for the Record answer many of the questions above. Rather than attempting to speak on former Director Comey's behalf, we refer you to that transcript and Statement for the Record.

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